IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 8773 of 2007(T)

PETITIONER:

M.P.SHAMOHANAN NAIR, SECRETARY (UNDER SUSPENSION) PARUMALA MILK PRODUCERS CO-OPERATIVE SOCIETIES LTD. NO.P.T.4(D) APCOS, PARUMALA, RESIDING AT MADATHIL MALAYIL CHANDRAMATHI BHAVANAM PARUMALA, THIRUVALLA.

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENTS:

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1. STATE OF KERALA, REP.BY THE SECRETARY, DEPARTMENT OF DAIRY DEVELOPMENT, GOVT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR, DEPARTMENT OF DAIRY DEVELOPMENT, PATHANAMTHITTA.

3. ASSISTANT MANAGER (P&I) TRIVANDRUM, REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD., KUTTIYIL JUNCTION, MANNAR PO ALAPPUZHA.

4. PARUMALA MILK PRODUCERS CO-OPERATIVE SOCIETY, PT 6(D) APCOS, PARUMALA, THIRUVALLA, REPRESENTED BY ITS PRESIDENT.

5. SURENDRAN.B., SUB COMMITTEE CONVENER, PARUMALA MILK PRODUCERS CO-OP SOCIETY PT 6 (D) APCOS, PARUMALA, THIRUVALLA, PATHANAMTHITTA.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.8773 OF 2007

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF PROCEEDING DTD. 14-3-06 OF 4TH RESPONDENT.
EXT.P2	TRUE COPY OF SUSPENSION ORDER ISSUED BY 4TH RESPONDENT DTD. 14-3-06
EXT.P3	TRUE COPY OF REPORT SUBMITTED BY THIRD RESPONDENT DTD. 16-1-06
EXT.P4	TRUE COPY OF APPEAL PETITION DTD. 20-03-06 FILED BY THE PETITIONER.
EXT.P5	TRUE COPY OF AUDIT REPORT 2004-05
EXT.P6	TRUE COPY OF CHARGE DTD. 22-5-06 ISSUED BY R5
EXT.P7	TRUE COPY OF OBJECTION FILED BY PETITIONER DTD. 30-06-06
EXT.P8	TRUE COPY OF COMMUNICATION DTD. 12-12-06 ALONG WITH COPY OF DECISION OF SUB COMMITTEE - 5TH RESPONDENT.
EXT.P9	TRUE COPY OF ORDER DTD. 3-2-07 OF R2
EXT.P10	TRUE COPY OF REPRESENTATION/APPEAL DTD. 5-2-07 FILED BY PETITIONER BEFORE THE FOURTH RESPONDENT.
EXT.P11	TRUE COPY OF REPRESENTATION SUBMITTED BY PETITIONER DTD. 15-12-07 TO THE SECOND RESPONDENT.
EXT.P12	TRUE COPY OF COMMUNICATION DTD. 23-04-07 WITH MINUTES OF THE COMMITTEE DTD. 25-04-07
EXT.P13	TRUE COPY OF APPEAL PETITION DTD. 22-05-2007 FILED BY PETITIONER BEFORE THE SECOND RESPONDENT.

/True Copy/

PS to Judge.

K. M. JOSEPH, J.

W.P.C. NO. 8773 OF 2007 T

Dated this the 13th September, 2007

JUDGMENT

Petitioner, while working as Secretary of the fourth respondent Society, was proceeded against alleging misappropriation. He came to be suspended by Ext.P1(a) pending enquiry. He preferred Appeal before the second respondent and the second respondent who is acting as the Joint Registrar in respect of Milk Societies, has proceeded to interfere with the order of suspension. Ext.P6 charge Memo was framed against the petitioner and following an enquiry, he was terminated from service as per Ext.P8 decision of the Sub Committee. The decision of the Sub Committee was confirmed by the Appellate Authority, namely the Managing Committee. Petitioner challenges the same. He seeks a direction to pass orders on Ext.P11 by the second respondent. Ext.P11 is directed against the order of the Sub Committee. Subsequently, the order of the Sub Committee has been confirmed by the Managing

Committee. Petitioner has preferred Ext.P13 before the second respondent and that is pending.

2. I heard the learned counsel appearing for the parties. One of the contentions raised by the learned counsel for the respondent Society is that this may be a matter which is covered by Section 69(2)(d) and there may not be any authority with the Joint Registrar to decide the matter invoking the powers under Rule 176. Rule 69(2)(d) reads as follows:

> ***"69. Disputes to be referred to Registrar -***
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> *(2) For the purposes of Sub-section (1), the following shall also be deemed to be disputes, namely:-*
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> *(d) any dispute arising in connection with employment of Officers and servants of the different classes of societies specified in sub-section (1) of Sec. 80, including their promotion and inter se seniority."*

3. Petitioner contends that Section 69(2)(d) may not apply. This is for the reason that the Milk Society of which the

petitioner is an employee, is not a Society included in Appendix III relatable to Section 80 of the Co-operative Societies Act. Counsel for the respondent Society would submit that it is correct that the Milk Society in question does not come under Appendix III. If the respondent Society does not come under Appendix III, I find it difficult to accept the case of the respondent that it will come under Section 69(2)(d). In such circumstances, the bar under Section 69(2)(d) may not apply to the Society in question. In such circumstances, the Writ Petition is disposed of with a direction to the second respondent to consider and take a decision on Ext.P13 in accordance with law. I leave open all the contentions of the parties regarding the merits of the matter. A decision will be taken after hearing all the parties concerned, within a period of two months from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

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